

CHAPTER 147

CRIMINAL LAW AND PROCEDURE

SENATE BILL 19-185

BY SENATOR(S) Fields and Lundeen, Bridges, Court, Crowder, Danielson, Foote, Gardner, Ginal, Hisey, Lee, Moreno, Pettersen, Smallwood, Story, Tate, Todd, Williams A., Winter, Woodward, Zenzinger;
also REPRESENTATIVE(S) Landgraf and Roberts, Arndt, Baisley, Bird, Buckner, Buentello, Caraveo, Carver, Catlin, Cutter, Duran, Esgar, Exum, Froelich, Galindo, Geitner, Gonzales-Gutierrez, Gray, Hansen, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Neville, Pelton, Ransom, Saine, Sandridge, Singer, Sirota, Tipper, Titone, Valdez A., Valdez D., Van Winkle, Weissman, Will, Wilson.

AN ACT

CONCERNING PROTECTIONS FOR MINOR HUMAN TRAFFICKING VICTIMS, AND, IN CONNECTION THEREWITH, REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

- (a) Human trafficking is a serious problem in Colorado and across the nation;
- (b) Among the diverse populations affected by human trafficking, minors, especially homeless and runaway youth, are particularly at risk of being trafficked for sex and involuntary labor;
- (c) Minors who are forced into involuntary servitude and commercial sexual activity are more properly identified as victims and not as criminals; and
- (d) Human trafficking in all forms creates a cycle of violence and impacts victims, families, and communities.

(2) The general assembly further finds and declares that:

- (a) As a result of the diverse systems that touch these minors' lives, professionals in the child welfare, law enforcement, treatment, nonprofit, and faith-based communities must collaborate to develop a multidisciplinary approach to protect

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

children and youth who are victims of human trafficking. This multidisciplinary approach needs to emphasize prevention, protection, prosecution, and partnerships.

(b) Protecting minors who are victims of human trafficking from further trauma by recognizing them as victims rather than criminals is beneficial for the minors involved and therefore in the public interest.

(3) It is therefore the intent of the general assembly to:

(a) Offer pathways that direct victimized minors away from juvenile delinquency by making available to those minors appropriate and comprehensive rehabilitative services;

(b) Offer protection and provide consistency in the treatment, care, and support of minors who are victims of human trafficking so they may continue to heal from the traumatic environment of being trafficked in a restorative justice manner; and

(c) Help create a safe haven for minors who are victims of human trafficking to come forward without fear and identify their traffickers and perpetrators.

(4) Therefore, the general assembly declares that the general assembly joins the federal government and other states around the nation in passing legislation to further combat human trafficking and protect minors who are victims of human trafficking.

SECTION 2. In Colorado Revised Statutes, 19-1-103, **amend** (1)(a) introductory portion, (1)(a)(VIII), and (23.5); and **add** (62.5) and (62.6) as follows:

19-1-103. Definitions. As used in this title 19 or in the specified portion of this title 19, unless the context otherwise requires:

(1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of article 3 of this ~~title~~ TITLE 19, means an act or omission in one of the following categories that threatens the health or welfare of a child:

(VIII) Any case in which a child is subjected to HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY SERVITUDE, AS DESCRIBED IN SECTION 18-3-503, OR human trafficking of a minor for sexual servitude, as described in ~~section 18-3-504, C.R.S.~~ SECTION 18-3-504 (2).

(23.5) "Commercial sexual exploitation of ~~children~~" ~~involves crimes~~ A CHILD" MEANS A CRIME of a sexual nature committed against ~~juvenile victims~~ A CHILD for financial or other economic reasons.

(62.5) "HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY SERVITUDE" MEANS AN ACT AS DESCRIBED IN SECTION 18-3-503.

(62.6) "HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE" MEANS AN ACT AS DESCRIBED IN SECTION 18-3-504 (2).

SECTION 3. In Colorado Revised Statutes, **add** 18-7-209 as follows:

18-7-209. Immunity from prostitution-related offenses - victims - human trafficking of a minor for involuntary servitude - human trafficking of a minor for sexual servitude. IF PROBABLE CAUSE EXISTS TO BELIEVE THAT A MINOR CHARGED WITH A PROSTITUTION-RELATED ACTIVITY PURSUANT TO SECTION 18-7-201, 18-7-202, 18-7-204, OR 18-7-207 OR A PROSTITUTION-RELATED OFFENSE PURSUANT TO A COUNTY OR MUNICIPAL ORDINANCE WAS A VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY SERVITUDE, PURSUANT TO SECTION 18-3-503 (2), OR HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE, PURSUANT TO SECTION 18-3-504 (2), AT THE TIME OF THE OFFENSE BEING CHARGED, THE MINOR IS IMMUNE FROM CRIMINAL LIABILITY OR JUVENILE DELINQUENCY PROCEEDINGS FOR SUCH CHARGES.

SECTION 4. In Colorado Revised Statutes, 18-3-504, **amend** (1)(a), (2)(a), and (2.5) as follows:

18-3-504. Human trafficking for sexual servitude - human trafficking of a minor for sexual servitude. (1) (a) A person ~~who~~ COMMITS HUMAN TRAFFICKING FOR SEXUAL SERVITUDE IF THE PERSON knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives, or obtains by any means another person for the purpose of coercing the person to engage in commercial sexual activity. ~~commits human trafficking for sexual servitude.~~

(2) (a) A person ~~who~~ COMMITS HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE IF THE PERSON:

(I) Knowingly sells, recruits, harbors, transports, transfers, isolates, entices, provides, receives, obtains by any means, maintains, or makes available a minor for the purpose of commercial sexual activity; ~~commits human trafficking of a minor for sexual servitude.~~ OR

(II) ~~A person who~~ Knowingly advertises, offers to sell, or sells travel services that facilitate an activity prohibited pursuant to subsection (2)(a)(I) of this section. ~~commits human trafficking of a minor for sexual servitude.~~

(2.5) It is an affirmative defense to a charge pursuant to subsection (2) of this section if the person being charged can demonstrate by a preponderance of the evidence that, at the time of the offense, he or she was a victim of human trafficking for sexual servitude who was forced or coerced into engaging in the human trafficking of minors for sexual servitude pursuant to subsection (2) of this section.

SECTION 5. In Colorado Revised Statutes, **add** 18-1-713 as follows:

18-1-713. Victims of human trafficking of a minor for involuntary servitude or sexual servitude - affirmative defenses. (1) EXCEPT AS PROVIDED IN SECTION 18-7-209, IT IS AN AFFIRMATIVE DEFENSE TO ANY CHARGE, OTHER THAN A CLASS 1 FELONY, IF THE MINOR BEING CHARGED PROVES, BY A PREPONDERANCE OF THE EVIDENCE, THAT HE OR SHE WAS, AT THE TIME OF THE OFFENSE:

(a) A VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY SERVITUDE PURSUANT TO SECTION 18-3-503 OR HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE PURSUANT TO SECTION 18-3-504; AND

(b) FORCED OR COERCED INTO ENGAGING IN THE CRIMINAL ACT CHARGED.

SECTION 6. In Colorado Revised Statutes, **add** 18-7-201.4 as follows:

18-7-201.4. Victim of human trafficking of a minor for sexual servitude - provision of services - reporting. IF A LAW ENFORCEMENT OFFICER ENCOUNTERS A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE AND WHO IS ENGAGING IN ANY CONDUCT THAT WOULD BE A VIOLATION OF SECTION 18-7-201, 18-7-202, 18-7-204, OR 18-7-207 OR A PROSTITUTION-RELATED OFFENSE PURSUANT TO A COUNTY OR MUNICIPAL ORDINANCE AND THERE IS PROBABLE CAUSE TO BELIEVE THAT THE MINOR IS A VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE PURSUANT TO SECTION 18-3-504, THE LAW ENFORCEMENT OFFICER OR AGENCY SHALL IMMEDIATELY REPORT A SUSPECTED VIOLATION OF HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE TO THE APPROPRIATE COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES OR THE CHILD ABUSE REPORTING HOTLINE SYSTEM CREATED PURSUANT TO SECTION 26-5-111. THE COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES SHALL SUBSEQUENTLY FOLLOW THE REPORTING REQUIREMENTS SET FORTH IN SECTION 19-3-308 (4)(c).

SECTION 7. Accountability. Five years after this act becomes law and in accordance with section 2-2-1201, Colorado Revised Statutes, the legislative service agencies of the Colorado general assembly shall conduct a post-enactment review of the implementation of this act utilizing the information contained in the legislative declaration set forth in section 1 of this act.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 6, 2019